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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,813	09/21/2000	Kevin R. Crompton	M0459/7018 DW	9117

7590 06/27/2006

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EXAMINER
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JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/666,813	<b>Applicant(s)</b> CROMPTON, KEVIN R.	
	<b>Examiner</b> Cheryl Juska	<b>Art Unit</b> 1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-12, 18-25, 27 and 47 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-12, 18-25 and 47 is/are allowed.
- 6) ☒ Claim(s) 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                       |                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                      | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____                                                |

### **DETAILED ACTION**

1. Prosecution on the merits of this application is reopened on claim 27 considered unpatentable for the reasons indicated below:

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,916,823 issued to Halloran in view of US 3,669,818 issued to Stark.

Halloran discloses a fabric comprising a layer of air-textured pile, wherein the texturing comprises a random overlay of depressions that are non-uniform in length and width. See specifically Figure 2. The stencil shown has open areas 114 that are non-uniform in length and width and would, therefore, produce depressions that are non-uniform in length and width. The texturing pattern shown in Figure 2 can easily be construed as “simulating bark” as recited in claim 27. Note, the limitation that the texturing “simulates bark” is dependent on the viewer but since bark comes in all sorts of textures, it is asserted that the texturing pattern shown in Figure 2 of Halloran meets this limitation of simulating bark. The only thing that Halloran fails to teach is the recited illustration printed on the layer of air textured pile. However, printing various

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illustrations on textured pile fabrics is well known in the art as seen in Stark. Stark specifically shows the printing of a floral design but any design will do depending of the tastes of the one designing the fabric. Therefore, it would have been obvious to one having ordinary skill in the art to provide a printed illustration on the textured pile fabric of Halloran to further provided pleasing aesthetics to the fabric, as per the teachings of Stark. Note, any illustration, such as a sylvan illustration, would have been obvious. Such a fabric is a camouflage fabric as it would provide camouflage effects when next to textures/views that closely match the textures/illustration of the fabric.

4. In the paragraph bridging pages 3 and 4 of the Office action dated May 12, 2005, reasons why various claims, including 27, were allowable over Halloran and Stark were presented. Upon further review, it is concluded that these reasons were not appropriate with respect to claim 27. Claim 27 does not require that the embossed pattern and the printed pattern have regions of elongated shapes with longitudinal axes oriented in a first direction. Said regions are not necessarily inherent to a pattern of 'simulated bark' since bark comes in many textures, shapes, and sizes. In other words, claim 27 does not require the patentable feature of the embossed pattern cooperating with the printed illustration in a particular way so as to provide a camouflage effect. Therefore, the indicated allowable subject matter of claim 27 is withdrawn in view of the above rejection.

***Allowable Subject Matter***

5. Claims 5-12, 18-25, and 47 stand allowed for the reasons of record.

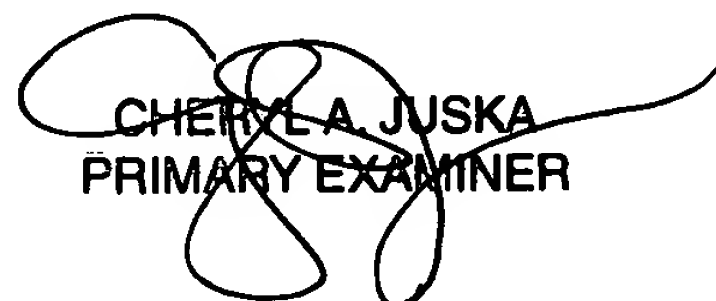
***Conclusion***

6. Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cj  
June 21, 2006

  
CHERYL A. JUSKA  
PRIMARY EXAMINER